

DOCKET NO: 249175US0



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
FAUSTO PINNA, ET AL. : EXAMINER: KARI PETRIK
SERIAL NO: 10/782,800 :
FILED: FEBRUARY 23, 2004 : GROUP ART UNIT: 3743
FOR: PAD WITH A GEL LAYER :
HAVING COSMETIC OR THERAPEUTIC
ACTIVITY

ELECTION & RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement mailed August 24, 2006, the Applicants elect with traverse **Species 1 (polyvinyl alcohol)** and **Species Ib (decongestant effect)**. No election of species is made with respect to Claim 33, since when use is made of polyvinyl alcohol, no polymerization has to be carried out by means of polymerizing rays. Therefore, Claim 33 should be withdrawn from consideration.

The Applicants traverse this election of species requirement, since this application is a Request for Continued Examination (RCE) and all the subject matter has already been searched. Therefore, there cannot be any undue burden imposed upon the Office in the examination of all the claims. Moreover, the Office has not established that the different embodiments are distinct and no argument or basis for this assertion has been provided. In the present case, the claims all relate to pads for application to skin with similar structural

features. Accordingly, the Applicants respectfully request that this requirement be withdrawn.

In the event that this requirement is maintained, the Applicants understand that upon an indication of allowability for a generic claim as it reads on the elected species, that examination will be extended to additional species. Once a claim that is determined to be generic is allowed, all of the claims drawn to species which include all the limitations of the generic claim will ordinarily be allowable, MPEP 806.04(d).

In view of the above remarks, the Applicants respectfully request that the Restriction/Election of Species Requirement be withdrawn and all the claims be examined together.

Respectfully submitted,

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